

**McGovern Legal Services, LLC**  
**William H. Brosha, Esq.**  
**850 Carolier Lane**  
**North Brunswick, NJ 08902**  
**Phone (732) 246-1221**  
**Fax (732) 246-1872**

**ATTORNEYS FOR QUAILBROOK EAST HOMEOWNERS ASSOCIATION, INC.**

In re:

**ATIYA K. LAMPTEY**

Debtor.

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW JERSEY  
IN PROCEEDINGS UNDER CHAPTER 13  
OF THE BANKRUPTCY CODE

CASE NO.: 17-34307-CMG

**NOTICE OF MOTION FOR STAY RELIEF**

HEARING DATE: July 15, 2020

HEARING TIME: 9:00 AM

**ORAL ARGUMENT WAIVED UNLESS  
OPPOSITION IS FILED**

**TO: THOSE LISTED ON ANNEXED SERVICE LIST**

**PLEASE TAKE NOTICE** that on the 15th day of July 2020 at 9:00 a.m. or as soon thereafter as counsel may be heard, the undersigned attorneys for Creditor, Mountainview at Green Brook Condominium Association, Inc., (the "Association"), by and through its counsel, McGovern Legal Services, LLC, will move before the Honorable Christine M. Gravelle, U.S.B.J. at the United States Bankruptcy Court for the District of New Jersey, located at 402 East State Street, Trenton, NJ 08608, Courtroom 3 for an Order:

Terminating the automatic stay with respect to the Association so that the Association may, among other things, pursue its rights with respect to the Debtor's real property to the extent and in the manner provided by any applicable Association Governing Documents, contract documents and non-bankruptcy law despite the pendency of this proceeding.

**Property:** Debtor's Real Property including, but not limited to:

174 Scobee Lane  
Somerset, New Jersey 08873

This motion is based upon the annexed brief, certifications and exhibits thereto, oral argument of counsel (if opposed), testimony and such other evidence as may be adduced at the time of the hearing (if opposed).

Oral argument is waived unless opposition is timely filed.

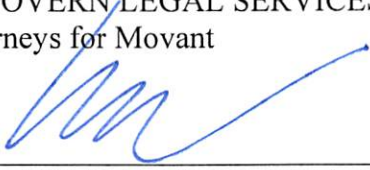
A Proposed form of Order is submitted herewith.

McGOVERN LEGAL SERVICES, LLC,  
Attorneys for Movant

Dated:

6/15/20

By:

  
WILLIAM H. BROSHA, ESQ.  
An Attorney of the Firm

**CERTIFICATION OF SERVICE**

I, William H. Brosha, do certify that a true copy of the Motion for Stay Relief was served upon those individuals and/or entities listed on the attached service list via electronic service on the dates listed below.

Dated:

BY: 

WILLIAM H. BROSHA, ESQ.

**SERVICE LIST**

**Via Electronic Service**

CLERK, UNITED STATES BANKRUPTCY COURT  
402 East State Street  
Trenton, NJ 08608  
Telephone: 609-989-2200

**Via Regular and Certified mail**

Atiya Lamptey  
174 Scobee Lane  
Somerset, New Jersey 08873

**Via Electronic Service and Regular mail**

Kirsten B. Ennis, Esq.  
Law Office of Kirsten B. Ennis, LLC  
50 Division St.  
Somerville, NJ 08876

**Via Electronic Service and Regular mail**

TRUSTEE  
Albert Russo  
Standing Chapter 13 Trustee  
CN 4853  
Trenton, New Jersey 08650

**Via Electronic Service and Regular mail**

U.S. TRUSTEE  
US Dept of Justice  
Office of the US Trustee  
One Newark Center Ste 2100  
Newark, NJ 07102

**McGOVERN LEGAL SERVICES, LLC**  
**BY: MICHAEL R. POLULAK, ESQUIRE**  
**850 CAROLIER LANE**  
**NORTH BRUNSWICK, NEW JERSEY 08902**  
**(732) 246-1221**  
**ATTORNEYS FOR QUAILBROOK EAST HOMEOWNERS ASSOCIATION, INC.**

In re:

ATIYA K. LAMPTEY

Debtor.

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW JERSEY  
IN PROCEEDINGS UNDER CHAPTER 13  
OF THE BANKRUPTCY CODE

CASE NO.: **17-34307-CMG**

**CREDITOR'S CERTIFICATION OF  
DEFAULT**

I, Matthew Carter, of full age, certify and say:

1. I am the Property Manager for Creditor, Quailbrook East Homeowners Association, Inc. (the "Association"), and, as such, I have knowledge of the amount due the Association from the Debtor. I am authorized to make this Certification and do so based upon my personal knowledge and review of the books and records of the Association.
2. Atiya K. Lamptey (the "Debtor") owns real property in the Association commonly known as 174 Scobee Lane, Somerset, New Jersey 08873 (the "Unit").
3. The Debtor has not paid all post-petition monthly assessments, late fees, fines or attorneys' fees related to this default since filing bankruptcy. Attached hereto is a true and accurate copy of the Debtor's post-petition account history.

The post-petition sum being sought in this application is detailed below:

Maintenance Fees (1/1/18 -6/4/20):	\$6,640.00
Late Fees (3/1/19 – 6/4/20):	\$300.00
Fines (11/2/19 and 1/9/20)	\$50.00
Legal (only work related to post-petition Default 3/4/20 – 6/4/20)	\$748.50
<u>Credits</u>	<u>-\$6,180.50</u>
<b>Total:</b>	<b>\$1,558.00</b>

4. This certification is being made in an effort to vacate the stay.
5. I certify the above facts to be true. I am aware that if the above facts are willfully false, I am subject to punishment.

Dated: 6/9/20

  
\_\_\_\_\_  
Matthew Carter, Property Manager

Unit	Space	Resident	Type	Date	CC	Description	Check	Amount	Balance
0174	02	Aliya Lampley 174 Scobee Ln Somerset NJ 08873	App#	159731			Beg Bal		0.00
			Chg	01/02/2019	A1	Jan18 Assoc fee		210.00	210.00
			Chg	01/02/2019	A1	Feb18 Assoc fee		210.00	420.00
			Chg	01/02/2019	A1	Mar18 Assoc fee		210.00	630.00
			Chg	01/02/2019	A1	Apr18 Assoc fee		210.00	840.00
			Chg	01/02/2019	A1	May18 Assoc fee		210.00	1,050.00
			Chg	01/02/2019	A1	Jun18 Assoc fee		210.00	1,260.00

08/04/2020 9:12 AM

Resident Transaction Report  
**QUAILBROOK EAST HOMEOWNERS ASSN, INC**  
 Data 01/01/2000 to 08/04/2020

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QE-SCOB Scobes Lane  
 Scobes Lane  
 Somerset NJ 08873

FirstService Residential  
 400 Campus Dr.  
 Suite 101  
 Collegeville PA 19426

Unit	Space	Resident	Type	Date	CC	Description	Check	Amount	Balance
			Chg	01/02/2019	A1	Jul18 Assoc fee		210.00	1,470.00
			Chg	01/02/2019	A1	Aug18 Assoc fee		210.00	1,680.00
			Chg	01/02/2019	A1	Sep18 Assoc fee		210.00	1,890.00
			Chg	01/02/2019	A1	Oct18 Assoc fee		210.00	2,100.00
			Chg	01/02/2019	A1	Nov18 Assoc fee		210.00	2,310.00
			Chg	01/02/2019	LC	Nov18 Late fees		25.00	2,335.00
			Chg	01/02/2019	A1	Dec18 Assoc fee		210.00	2,545.00
			Chg	01/02/2019	LC	Dec18 Late fees		25.00	2,570.00
			Chg	01/02/2019	A1	Jan18 Assoc fee		210.00	2,780.00
			Pay	01/02/2019		Trf from 01 account	16860284	-210.00	2,570.00
			Pay	01/02/2019		Trf from 01 account	17764080	-210.00	2,360.00
			Pay	01/02/2019		Trf from 01 account	18889951	-210.00	2,150.00
			Pay	01/02/2019		Trf from 01 account	20234843	-210.00	1,940.00
			Pay	01/02/2019		Trf from 01 account	21514876	-225.00	1,715.00
			Pay	01/02/2019		Trf from 01 account	23232517	-215.00	1,500.00
			Pay	01/02/2019		Trf from 01 account	27973148	-880.00	640.00
			Pay	01/02/2019		Trf from 01 account	30235304	-415.00	225.00
			Pay	01/17/2019		PMT	23284278	-812.45	-587.45
			Tr	01/22/2019		Trf to 01 account	23284278	812.45	225.00
			Cr	01/23/2019	LC	Waive late fee		-25.00	200.00
			Chg	02/01/2019	A1	Assoc. Fees-Monthly		230.00	430.00
			Cr	02/01/2019	LC	Late fee		-25.00	405.00
			Pay	02/04/2019		ACH Payment	32804025	-175.00	230.00
			Chg	02/05/2019	LE	DEC18 LGL 128423		125.00	355.00
			Pay	02/11/2019		PMT	2388275	-510.75	-155.75
			Cr	02/22/2019	LE	DEC18 LGL 128423		-125.00	-280.75
			Tr	02/22/2019		trf to 01	2388275	510.75	230.00
			Chg	03/01/2019	A1	Assoc. Fees-Monthly		230.00	460.00
			Pay	03/12/2019		ACH Payment	34991542	-230.00	230.00
			Chg	03/15/2019	LC	LATE FEES		25.00	255.00
			Pay	03/28/2019		ACH Payment	35410450	-230.00	25.00
			Chg	04/01/2019	A1	Assoc. Fees-Monthly		230.00	255.00
			Pay	04/10/2019		PMT	2300270	-80.02	194.98
			Chg	04/15/2019	LC	LATE FEES		25.00	219.98
			Chg	05/01/2019	A1	Assoc. Fees-Monthly		230.00	449.98
			Chg	05/15/2019	LC	LATE FEES		25.00	474.98
			Pay	05/15/2019		ACH Payment	38377795	-230.00	244.98
			Chg	06/01/2019	A1	Assoc. Fees-Monthly		230.00	474.98
			Chg	06/04/2019	LE	MAR19 LGL 130407		50.00	524.98
			Pay	06/14/2019		PMT	2394450	-510.75	14.23
			Cr	06/20/2019	le	ADJ MAR19 130407		-50.00	-35.77
			Tr	06/20/2019		TRF TO 01	2394450	510.75	474.98
			Chg	07/01/2019	A1	Assoc. Fees-Monthly		230.00	704.98
			Chg	07/15/2019	LC	LATE FEES		25.00	729.98
			Chg	08/01/2019	A1	Assoc. Fees-Monthly		230.00	959.98
			Chg	08/15/2019	LC	LATE FEES		25.00	984.98
			Chg	09/01/2019	A1	Assoc. Fees-Monthly		230.00	1,214.98
			Pay	09/09/2019		ACH Payment	44777780	-1,214.98	0.00
			Chg	10/01/2019	A1	Assoc. Fees-Monthly		230.00	230.00
			Chg	10/15/2019	LC	LATE FEES		25.00	255.00
			Chg	11/01/2019	A1	Assoc. Fees-Monthly		230.00	485.00
			Pay	11/12/2019		ACH Payment	48982175	-243.00	242.00
			Chg	11/15/2019	LC	LATE FEES		25.00	267.00
			Chg	11/25/2019	VF	Illegal Parking Fine		25.00	292.00
			Chg	12/01/2019	A1	Assoc. Fees-Monthly		230.00	522.00
			Pay	12/02/2019		ACH Payment	49554893	-250.00	272.00
			Chg	12/18/2019	LC	LATE FEES		25.00	297.00
			Chg	01/01/2020	A1	Assoc. Fees-Monthly		230.00	527.00
			Chg	01/09/2020	VF	Parking Fine		25.00	552.00
			Chg	01/15/2020	LC	LATE FEES		25.00	577.00
			Pay	01/28/2020		ACH Payment	53718608	-289.00	288.00
			Chg	02/01/2020	A1	Assoc. Fees-Monthly		230.00	518.00
			Chg	02/18/2020	LC	LATE FEES		25.00	543.00
			Pay	02/18/2020		PMT	2408752	-509.65	33.35
			Chg	03/01/2020	A1	Assoc. Fees-Monthly		230.00	263.35
			Tr	03/04/2020		Trnf To QESCOB017401	2408752	509.65	773.00
			Pay	03/05/2020		ACH Payment	57048568	-263.35	509.65
			Tr	03/05/2020		trf to 01	2300270	60.02	569.67
			Chg	04/01/2020	A1	Assoc. Fees-Monthly		230.00	799.67
			Chg	04/15/2020	LC	LATE FEES		25.00	824.67
			Pay	04/20/2020		Credit Card Pmt	60047076	-250.00	574.67
			Chg	04/23/2020	LE	Mar20 Legal 145547		40.50	615.17
			Chg	05/01/2020	A1	Assoc. Fees-Monthly		230.00	845.17
			Chg	05/15/2020	LC	LATE FEES		25.00	870.17
			Chg	06/01/2020	A1	Assoc. Fees-Monthly		230.00	1,100.17
			Pay	06/02/2020		ACH Payment	63153208	-250.17	850.00

06/04/2020 9:12 AM

Resident Transaction Report  
QUAILBROOK EAST HOMEOWNERS ASSN, INC  
Dates 01/01/2000 to 06/04/2020

Page: 3

QE-SCOB Scobee Lane  
Scobee Lane  
Somerset NJ 08873

FirstService Residential  
400 Campus Dr.  
Suite 101  
Collegeville PA 19426

Unit	Space	Resident	Type	Date	CC Description	Check End Bal	Amount	Balance
					McGovern Legal Services, LLC 4/30/20	27.00	877.00	
					McGovern Legal Services, LLC work in progress	681.00	1558.00	



MCGOVERN LEGAL SERVICES, LLC  
BY: MARLENA S. DIAZ-COBO ESQ.  
850 CAROLIER LANE  
NORTH BRUNSWICK, NEW JERSEY 08902  
(732) 246-1221  
**ATTORNEYS FOR QUAILBROOK EAST HOMEOWNERS ASSOCIATION, INC.**

In re:

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW JERSEY  
IN PROCEEDINGS UNDER CHAPTER 13  
OF THE BANKRUPTCY CODE

**ATIYA K. LAMPTEY,**  
  
Debtor.

CASE NO.: 17-34307-CMG

**BRIEF IN SUPPORT OF MOTION FOR  
STAY RELIEF**

HEARING DATE: July 15, 2020  
HEARING TIME: 9:00 A.M.

**ORAL ARGUMENT WAIVED UNLESS OPPOSITION IS FILED**

**STATEMENT OF FACTS**

McGovern Legal Services, LLC represents Quailbrook East Homeowners Association, Inc. (the "Association") in the above-captioned matter. Atiya K. Lamptey (the "Debtor") owns real property within the Association commonly known as 174 Scobee Lane, Somerset, New Jersey 08873 (the "Unit"). Since filing her Chapter 13 Bankruptcy Petition, the Debtor has failed to pay all of her required monthly assessments and fees. The Debtor owes the Association \$1,558.00 in post-petition arrearages in monthly maintenance assessments, late fees and attorney's fees and costs related to this default through June 4, 2020.

**STATEMENT OF RELIEF REQUESTED**

The Association requests that this Court grant the Association relief from the automatic stay.

## **LEGAL ARGUMENT**

### **I. The Association's Motion For Stay Relief Should Be Granted Because Debtor Has Failed To Remit Post-Petition Payments To The Association.**

The debt owed to the Association is so unique and important that in many cases, it is deemed non-dischargeable. See, 11 U.S.C.A. § 523(a)(16). The Association is a non-profit corporation that operates the common property. Its only source of income is payment by each homeowner of their proportionate share of the Association's expenses. If a homeowner does not pay, either the Association does not have the funds necessary to maintain the common property or the other homeowners in the community must pay the shortfall caused by the delinquency.

In order to facilitate the peaceful and harmonious coexistence of its homeowners, all residents of the Association are also required to adhere to certain rules, regulations and obligations, which are described in the Governing Documents. The Association is empowered, through its Governing Documents and the New Jersey Condominium Act, N.J.S.A. §46:8B-15(f) to require unit owners to pay monthly maintenance assessments, special assessments, late fees, fines and attorneys' fees associated with collections.

Despite demand, the Debtor has failed to make common expense payments to the Association as required by the terms of the By-Laws and Master Deed. Pursuant to 11 U.S.C.A. §362(d) the Court shall grant relief from the automatic stay for cause. Here, the Debtor has failed to remit required post-petition payments to the Association. Section 523(a)(16) provides that an individual debtor is not discharged for "a fee or assessment that becomes due and payable after the order for relief to a membership association with respect to the debtor's interest in a unit that has condominium ownership." Debtor holds title to a unit that has condominium ownership. Therefore, the Debtor is obligated to pay the Association these post-petition accruals. The Debtor has not paid these post-petition accruals and therefore has violated the

Bankruptcy Code.

It is highly prejudicial for the Debtor to own a unit in the Association without paying the required, commonly monthly payments. It is highly prejudicial if the Debtor does not comply with the Governing Documents. The Debtor is abusing the Bankruptcy code at the Association's peril. Due to Debtor's non-payment of post-petition fees and assessments, the Association requests that the Court grant the Association's motion for relief from the automatic stay.

**II. The Association is entitled to Stay Relief.**

The Association seeks relief from the automatic stay to pursue a foreclosure. Debtor's failure to pay post-petition accruals constitutes cause for stay relief. See, 11 U.S.C.A. § 362(d), 11 U.S.C.A. § 1301(d) and 11 U.S.C.A. § 105. Therefore, the Court should grant the Association stay relief so that it may pursue its foreclosure action despite this bankruptcy.

The continual accrual of post-petition sums without payment in full irreparably harms the Association and its members. As stated above, if a homeowner does not pay, either the Association does not have the funds necessary to maintain the common property or the other homeowners in the community must pay the shortfall caused by the delinquency. Dismissal of this case will not provide an adequate remedy or protection to the Association. Dismissal will effectively provide the Debtor with the opportunity to file another bankruptcy and obtain a new "order for relief" allowing Debtors to circumvent Bankruptcy Code Section 523(a)(16). Such action is not appropriate. It irreparably harms the Association and denies the Association adequate protection. Therefore, the Association requests that the Court grant the Association stay relief.

**CONCLUSION**

Due to Debtor's failure to pay post-petition fee accruals, the Association requests that this Court grant the Association relief from the automatic stay to pursue foreclosure of real property in the Association.

McGOVERN LEGAL SERVICES, LLC,  
Attorneys for Movant

Dated:

6/15/20

By: 

William H. Brosha, Esq.  
An Attorney of the Firm

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-2(c)

McGovern Legal Services, LLC  
Marlena S. Diaz-Cobo, Esq. (MM-4524)  
850 Carolier Lane  
North Brunswick, NJ 08902  
Phone (732) 246-1221  
Attorneys for QUAILBROOK EAST  
HOMEOWNERS ASSOCIATION, INC.

In Re:

ATIYA K. LAMPTEY

Case No.: 17-34307

Hearing Date: July 15, 2020

Judge: CMG

Chapter: 13

Recommended Local Form:

☐ Followed

☒ Modified

**ORDER VACATING STAY**

The relief set forth on the following page is hereby **ORDERED**.

\*\*\*\*\*

Upon the motion of Quailbrook East Homeowners Association, Inc., under Bankruptcy Code section 362(a) for relief from the automatic stay as to certain property as hereinafter set forth, and for cause shown, it is

ORDERED that the automatic stay is vacated to permit the movant to institute or resume and prosecute to conclusion one or more actions in the court(s) of appropriate jurisdiction to pursue the movant's rights in the following:

☒ Real property more fully described as:

174 Scobee Lane  
Somerset, New Jersey 08873

+

☒ ~~Personal property more fully described as:~~

The Association may suspend membership rights and privileges

It is further ORDERED that the movant may join the debtor and any trustee appointed in this case as defendants in its action(s) irrespective of any conversion to any other chapter of the Bankruptcy Code.

The movant shall serve this order on the debtor, any trustee and any other party who entered an appearance on the motion.

Rev. 7/1/04; jml

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY  
Caption in Compliance with D.N.J. LBR 9004-2(c)

McGovern Legal Services, LLC  
Marlena S. Diaz-Cobo, Esq.  
850 Carolier Lane  
North Brunswick, NJ 08902  
Phone (732) 246-1221  
Attorneys for QUAILBROOK EAST  
HOMEOWNERS ASSOCIATION, INC.

In Re:

ATIYA K. LAMPTEY

Case No.: 17-34307  
Chapter: 13  
Adv. No.: \_\_\_\_\_  
Hearing Date: July 15, 2020  
Judge: CMG

### CERTIFICATION OF SERVICE

1. I, Corinn Hickey, Paralegal :

- ☐ represent the \_\_\_\_\_ in the above-captioned matter.
- ☒ am the secretary/paralegal for Creditor, Condo Ass'n, who represents the \_\_\_\_\_ in the above captioned matter.
- ☐ am the \_\_\_\_\_ in the above case and am representing myself.

2. On 6/16/20, I sent a copy of the following pleadings and/or documents to the parties listed in the chart below:

Motion for Stay Relief

3. I hereby certify under penalty of perjury that the above documents were sent using the mode of service indicated.

Dated: 6/16/20

Signature 

Name and Address of Party Served	Relationship of Party to the Case	Mode of Service
Atiya Lamptey 174 Scobee Lane Somerset, New Jersey 08873	Debtor	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input checked="" type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court *)
Kirsten B. Ennis, Esq. Law Office of Kirsten B. Ennis, LLC 50 Division St. Somerville, NJ 08876	Debtor's Attorney	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court *)
Albert Russo Standing Chapter 13 Trustee CN 4853 Trenton, NJ 08650-4853	Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court *)
US Dept of Justice Office of the US Trustee One Newark Center Ste 1401 Newark, NJ 07102	US Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other _____ (as authorized by the court *)